

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,

- against -

ALLAN HANDLER,

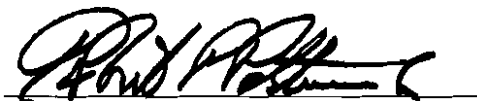
Defendant.
-----X

ROBERT P. PATTERSON, JR., U.S.D.J.

Defendant Allan Handler moves to suppress items seized during his arrest and the subsequent search of his apartment and to sever his trial from that of his codefendants. A defendant is entitled to an evidentiary hearing on a motion to suppress if he can show there is a contested issue of material fact. United States v. Pena, 961 F.2d 333, 339 (2d Cir. 1992). To establish a factual dispute, a defendant must submit an affidavit by a person having knowledge of the facts upon which the motion is grounded. United States v. Shamsideen, 2004 WL 1179305 (S.D.N.Y. Mar. 31, 2004); United States v. Viscioso, 711 F. Supp. 740, 745 (S.D.N.Y. 1989). Since Defendant's motion is not supported by such an affidavit, the motion will be denied for failure to raise a factual dispute unless a proper affidavit or affidavits are served and filed before January 14, 2008. Oral argument is adjourned until January 17, 2008, at 10:00 a.m.

IT IS SO ORDERED.

Dated: New York, New York
January 4, 2008


Robert P. Patterson, Jr.
U.S.D.J.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/4/08

07 Cr. 889 (RPP)

ORDER

Copies of this Opinion and Order sent to:

Attorney for Defendant

James A. Cohen, Esq.
Lincoln Square Legal Services
33 West 60th Street, 3rd Floor
New York, NY 10023
Tel: 212-636-6934
Fax: 212-636-6923

Michael J. Garcia, U.S. Attorney
Southern District of New York
ATTN: Benjamin Gruenstein, A.U.S.A.
One St. Andrew's Plaza
New York, NY 10007
Tel: 212-637-2312
Fax: 212-637-0097